

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X		
CARLOS GUTIERREZ,	:	
	:	
Plaintiff,	:	21 Civ. 63 (LGS)
	:	
-against-	:	<u>ORDER</u>
	:	
DEAN L. STOCKMAN, et al.,	:	
Defendant.	:	
-----X		

LORNA G. SCHOFIELD, District Judge:

WHEREAS, Defendants filed a Notice of Removal on January 5, 2021, (Dkt. No. 1) and removed this action from State Court pursuant to the Court’s diversity jurisdiction.

WHEREAS, a District Court may *sua sponte* remand a case for a procedural defect within thirty (30) days of the filing of the Notice of Removal. *See Mitskovski v. Buffalo & Fort Erie Pub. Bridge Auth.*, 435 F.3d 127, 131 (2d Cir. 2006). Courts “construe removal statutes strictly and resolve doubts in favor of remand.” *Purdue Pharma L.P. v. Kentucky*, 704 F.3d 208, 220 (2d Cir. 2013).

WHEREAS, a Notice of Removal should allege the citizenship of the parties both at the time of the commencement of the action, and at the time of the Notice of Removal. “The general rule is when, as in this case, diversity is the sole basis for asserting removal jurisdiction, diversity must exist both at the time the original action is filed in state court and at the time removal is sought to federal court.” *Adrian Family Partners I, L.P. v. ExxonMobil Corp.*, 79 Fed. App’x 489, 491 (2d Cir. 2003) (summary order); *see also United Food & Commercial Workers Union, Local 919 v. CenterMark Properties Meriden Square, Inc.*, 30 F.3d 298, 301 (2d Cir. 1994). A corporation “shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business.” 28

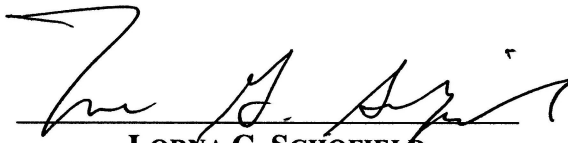
U.S.C. § 1332(c)(1).

WHEREAS, the Notice of Removal fails to specify the time during which Defendants Dean L. Stockman and Reed Trucking Company were citizens of Delaware. It is hereby

ORDERED that the matter is summarily remanded to state court. Defendant's Notice of Removal is procedurally defective. Pursuant to section 1447(c), the Clerk of Court is respectfully directed to mail a certified copy of this Opinion and Order to the Supreme Court of the State of New York, Bronx County. The Clerk of Court is further directed to close the case.

SO ORDERED.

Dated: January 19, 2021
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE